

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of MARTIN L. STRINGER and U.S. POSTAL SERVICE,  
AIRPORT MAIL FACILITY, West Columbia, SC

*Docket No. 99-1242; Submitted on the Record;  
Issued August 15, 2000*

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DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,  
A. PETER KANJORSKI

The issue is whether appellant met his burden of proof to establish that he sustained an emotional condition in the performance of duty.

On March 18, 1998 appellant, then a 49-year-old carrier (modified), filed a notice of traumatic injury and claim for continuation of pay/compensation (Form CA-1) alleging that he sustained mental, emotional and physical stress due to his federal employment. In a statement, appellant attributed his stress due to tension caused by his supervisors and his inability to perform his carrier technician position. He also alleged that the circumstances surrounding his limited-duty reassignment were stressful due to his having to "deal with my nurse advocate and postal managers in an after-the-fact decision," that he became stressed on February 10, 1998 when his supervisors "abruptly took me completely off the computer and the internet" and that he did not "play" on the computer as stated by his supervisor, William Pugh, to another supervisor, Ms. B.B. Goodson.

The employing establishment contested the claim and attached a copy of appellant's limited-duty position offer which required appellant to answer the telephone and take messages.

In a March 11, 1998 report, Dr. H. Randolph Scott, II stated that appellant was totally disabled from March 6 through 31, 1998 due to work-related stress.

By decision dated April 3, 1998, the Office denied appellant's claim on the basis that he failed to establish that he sustained an injury in the performance of duty.

In a letter dated October 19, 1998, appellant requested reconsideration of the April 3, 1998 Office decision. He contended that using the computer and internet was part of his limited job duties and that when the employing establishment advised him he could no longer use the computer that this action caused him stress.

In a November 5, 1998 letter, Mr. Pugh denied that using a computer and working on the internet were part of appellant's job duties and that the only job duties appellant had were to answer the telephone and take messages. He stated that he instructed appellant to stay off the computer because he had been "told that he was not suppose (sic) to lift anything or do anything repetitious. Mr. Pugh was not instructed to use the computer by me."

By decision dated January 22, 1999, the Office denied appellant's request for modification as he failed to submit any evidence supporting that he sustained an injury in the performance of duty. The Office also noted that, while appellant alleged that using the computer was part of his job duties, the employing establishment denied this.

The Board finds that appellant has failed to meet his burden of proof to establish that he sustained an emotional condition in the performance of duty

Workers' compensation law does not apply to each and every injury or illness that is somehow related to an employee's employment. There are situations where an injury or an illness has some connection with the employment but nevertheless does not come within the concept or coverage of workers' compensation. Where the disability results from an employee's emotional reaction to his regular or specially assigned duties or to a requirement imposed by the employment, the disability comes within the coverage of the Federal Employees' Compensation Act.<sup>1</sup> On the other hand, the disability is not covered where it results from such factors as an employee's fear of a reduction-in-force or his frustration from not being permitted to work in a particular environment or to hold a particular position.<sup>2</sup>

Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that the condition for which he claims compensation was caused or adversely affected by employment factors.<sup>3</sup> This burden includes the submission of a detailed description of the employment factors or conditions which appellant believes caused or adversely affected the condition or conditions for which compensation is claimed.<sup>4</sup>

In cases involving emotional conditions, the Board has held that, when working conditions are alleged as factors in causing a condition or disability, the Office, as part of its adjudicatory function, must make findings of fact regarding which working conditions are deemed compensable factors of employment and are to be considered by a physician when providing an opinion on causal relationship and which working conditions are not deemed factors of employment and may not be considered.<sup>5</sup> If a claimant does implicate a factor of employment, the Office should then determine whether the evidence of record substantiates that

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> See *Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 566 (1991); *Lillian Cutler*, 28 ECAB 125 (1976).

<sup>3</sup> *Pamela R. Rice*, 38 ECAB 838, 841 (1987).

<sup>4</sup> *Effie O. Morris*, 44 ECAB 470, 473-74 (1993).

<sup>5</sup> See *Norma L. Blank*, 43 ECAB 384, 389-90 (1992).

factor. When the matter asserted is a compensable factor of employment and the evidence of record establishes the truth of the matter asserted, the Office must base its decision on an analysis of the medical evidence.<sup>6</sup>

In the present case, appellant alleged that his stress was due to the employing establishment informing him that he was no longer to use the computer or internet, which appellant alleged were part of his limited job duties. The limited-duty position description indicates that appellant's job duties were to answer the telephone and take messages and Mr. Pugh, appellant's supervisor, denied that working on the computer and using the internet were part of appellant's assigned job duties. The assignment of work duties is an administrative or personnel matter which the Board has held is unrelated to the employment unless there was error or abuse.<sup>7</sup> The Board has also found that an administrative or personnel matter will be considered to be an employment factor where the evidence discloses error or abuse on the part of the employing establishment. In determining whether the employing establishment erred or acted abusively, the Board examines whether the employing establishment acted reasonably.<sup>8</sup> Appellant has not submitted any evidence that the administrative actions were made in error or were in fact abusive or that using the computer and the internet were part of his assigned job duties.<sup>9</sup> His own perceptions and feeling alone are not compensable. To establish entitlement to benefits under the Act, a claimant must establish a basis in fact for the claim by supporting his allegations with probative and reliable evidence.<sup>10</sup> As appellant's allegations lack substantiation of error or abuse on behalf of the employing establishment, they are not compensable in this case.<sup>11</sup>

The Board finds that appellant has not alleged and substantiated a compensable factor of employment. Since no compensable factor of employment has been established, the Board will not address the medical evidence.<sup>12</sup>

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<sup>6</sup> *Id.*

<sup>7</sup> *Donald W. Bottles*, 40 ECAB 349, 353 (1988).

<sup>8</sup> *See Richard J. Dube*, 42 ECAB 916 (1991).

<sup>9</sup> *Elizabeth W. Esnil*, 46 ECAB 606 (1995).

<sup>10</sup> *Ruthie M. Evans*, 41 ECAB 416 (1990).

<sup>11</sup> Appellant has also made general allegations that Mr. Pugh treated him unfairly, and that he was unfairly investigated. However, as noted in the text of this decision, a claimant must establish a basis in fact for the claim with probative and reliable evidence; *see id.* Appellant has not submitted such evidence with regard to these general allegations.

<sup>12</sup> *See Margaret S. Krzyczki*, 43 ECAB 496 (1992).

The decisions of the Office of Workers' Compensation Programs dated January 22, 1999 and April 3, 1998 are hereby affirmed.

Dated, Washington, D.C.  
August 15, 2000

Michael J. Walsh  
Chairman

Willie T.C. Thomas  
Member

A. Peter Kanjorski  
Alternate Member